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HOUSE BILL 92

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

James Roger Madalena

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

RELATING TO BUSINESS; AMENDING THE INDIAN ARTS AND CRAFTS SALES
ACT; INCREASING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 30-33-9 NMSA 1978 (being Laws 1977,
Chapter 334, Section 6, as amended) is amended to read:

"30-33-9. VIOLATION OF ACT--PENALTIES.--

A. In an action brought by the attorney general or
a district attorney for a violation under the provisions of the
Indian Arts and Crafts Sales Act, the district court may order
temporary or permanent injunctive relief. The district court
shall order restitution and such other relief as may be
necessary to redress injury to any person resulting from the
violation.

B. In any action brought under this section, if the

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1 court finds that a person is willfully using or has willfully
2 used a method, act or practice declared unlawful by the Indian
3 Arts and Crafts Sales Act, the attorney general or district
4 attorney, upon petition to the court, may recover, on behalf of
5 the state of New Mexico, a civil penalty not to exceed [~~five~~
6 ~~hundred dollars (\$500)] five thousand dollars (\$5,000) per
7 violation.~~

8 C. Any person willfully and knowingly violating the
9 provisions of the Indian Arts and Crafts Sales Act is guilty of
10 a petty misdemeanor when the violation involves property valued
11 at less than [~~two thousand five hundred dollars (\$2,500)] two
12 hundred fifty dollars (\$250) and shall be punished by a fine of
13 not less than one hundred dollars (\$100) per violation per day,
14 up to a maximum fine of five hundred dollars (\$500), or by
15 imprisonment in the county jail for a definite term not to
16 exceed six months, or both.~~

17 D. Any person willfully and knowingly violating the
18 provisions of the Indian Arts and Crafts Sales Act is guilty of
19 a misdemeanor when the violation involves property valued at or
20 in excess of [~~two thousand five hundred dollars (\$2,500) and~~
21 ~~less than twenty thousand (\$20,000)] two hundred fifty dollars
22 (\$250) and not more than five hundred dollars (\$500) and shall
23 be punished by a fine of not less than one hundred dollars
24 (\$100) per violation per day, up to a maximum fine of one
25 thousand dollars (\$1,000), or by imprisonment in the county~~

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1 jail for not more than one year, or both.

2 E. Any person willfully and knowingly violating the
3 provisions of the Indian Arts and Crafts Sales Act is guilty of
4 a fourth degree felony when the violation involves property
5 valued [~~at or~~] in excess of [~~twenty thousand dollars (\$20,000)~~]
6 five hundred dollars (\$500) and not more than two thousand five
7 hundred dollars (\$2,500) and shall be punished by a fine of not
8 less than one hundred dollars (\$100) per violation per day, up
9 to a maximum fine of five thousand dollars (\$5,000), or up to
10 eighteen months imprisonment in the county jail, or both.

11 F. Any person willfully and knowingly violating the
12 provisions of the Indian Arts and Crafts Sales Act is guilty of
13 a third degree felony when the violation involves property
14 valued in excess of two thousand five hundred dollars (\$2,500)
15 and not more than twenty thousand dollars (\$20,000) and shall
16 be punished by a fine of not less than two hundred dollars
17 (\$200) per violation per day, up to a maximum fine of five
18 thousand dollars (\$5,000), or up to three years imprisonment,
19 or both.

20 G. Any person willfully and knowingly violating the
21 provisions of the Indian Arts and Crafts Sales Act is guilty of
22 a second degree felony when the violation involves property
23 valued in excess of twenty thousand dollars (\$20,000) and shall
24 be punished by a fine of not less than five hundred dollars
25 (\$500) per violation per day, up to a maximum fine of ten

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1 thousand dollars (\$10,000), or up to nine years imprisonment,
2 or both."

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